

Please type a plus sign (+) inside this box 

PTO/SB/05 (03/01)

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

**UTILITY  
PATENT APPLICATION  
TRANSMITTAL**

(Only for new nonprovisional applications under 37 CFR 1.53(b))

**Attorney Docket Number****KLYC-01056USE****Inventor**

James F. Zucherman et al.

**Title****Method for Lateral Implantation of Spinous Process Spacer****Express Mail Label No.****EV 386 447 241 US****APPLICATION ELEMENTS**

See MPEP Chapter 600 concerning Utility Patent Application Contents

**ADDRESS TO:** Commissioner for PatentsMail Stop Patent Application  
Alexandria, VA 22313-1450

1. <input checked="" type="checkbox"/> Fee Transmittal Form (PTO/SB/17) (in duplicate for fee processing)	7. <input type="checkbox"/> CD-ROM or CD-R in duplicate, large table or computer program (Appendix)
2. <input checked="" type="checkbox"/> Applicant claims small entity status (See 37 CFR 1.27)	8. <input type="checkbox"/> Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary) <ul style="list-style-type: none"> <li>a. <input type="checkbox"/> Computer Readable Form (CRF)</li> <li>b. Specification Sequence Listing on:               <ul style="list-style-type: none"> <li>i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or</li> <li>ii. <input type="checkbox"/> paper</li> </ul> </li> <li>c. <input type="checkbox"/> Statements verifying identity of above</li> </ul>
3. <input checked="" type="checkbox"/> Specification Total Pages <u>55</u> <i>(preferred arrangement set forth below)</i> <ul style="list-style-type: none"> <li>■ Descriptive Title of the invention</li> <li>■ Cross Reference to Related Applications</li> <li>■ Statement Regarding Fed Sponsored R &amp; D</li> <li>■ Reference to Sequence Listing, a table or computer program listing Appendix</li> <li>■ Background of the Invention</li> <li>■ Brief Summary of the Invention</li> <li>■ Brief Description of the Drawing(s) (if filed)</li> <li>■ Detailed Description</li> <li>■ Claim(s) <u>47</u></li> <li>■ Abstract of the Disclosure</li> </ul>	9. <input type="checkbox"/> Assignment Papers (Cover Sheet & Document(s)) Total Pages _____
4. <input checked="" type="checkbox"/> Formal Drawing(s) (35 USC 113) Total Sheets <u>65</u>	10. <input type="checkbox"/> 37 CFR 3.73(b) Statement <input type="checkbox"/> Power of Attorney <i>(when there is an assignee)</i>
5. <input checked="" type="checkbox"/> Oath or Declaration Total Pages <u>8</u> <ul style="list-style-type: none"> <li>a. <input type="checkbox"/> Newly Executed</li> <li>b. <input checked="" type="checkbox"/> Copies from prior applications 08/958,281; 09/175,645; 08/778,093 (37 CFR 1.63(d))           <ul style="list-style-type: none"> <li>i. <input checked="" type="checkbox"/> DELETION OF INVENTOR(S) Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b). Total Pages <u>2</u></li> </ul> </li> </ul>	11. <input type="checkbox"/> English Translation Document ( <i>if applicable</i> )
6. <input checked="" type="checkbox"/> Application Data Sheet. See 37 CFR 1.76 Total Pages <u>4</u>	12. <input type="checkbox"/> Information Disclosure Statement IDS (IDS/PTO-1449) Total Pages Citations
	13. <input type="checkbox"/> Preliminary Amendment Total Pages
	14. <input checked="" type="checkbox"/> Return Postcard, specifically itemized (MPEP 503)
	15. <input type="checkbox"/> Certified Copy of Priority Document(s) <i>(if foreign priority is claimed)</i>
	16. <input type="checkbox"/> Nonpublication Request under 35 USC 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
	17. <input type="checkbox"/> Other

18. If a **CONTINUING APPLICATION**, check appropriate box and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76: Continuation  Divisional  Continuation-in-part (CIP) of prior application No: 09 / 842,756Prior application information: Examiner: David O. Reip Group/Art Unit: 3731

For Continuation or Divisional Apps only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**19. CORRESPONDENCE ADDRESS** Customer Number 23910 or  Correspondence Address below

NAME	Fliesler Meyer LLP			
ADDRESS	Four Embarcadero Center, Fourth Floor			
CITY	San Francisco	STATE	CA	ZIP CODE
COUNTRY	USA	TELEPHONE	415/362-3800	FAX 415/362-2928
Name (Print/Type)	Sheldon R. Meyer		Registration No. (Attorney/Agent)	27,660
Signature			Date	March 1, 2004

16064-U.S.P.T.O.  
10/790651

030104

030104  
2047 U.S. PTO

PTO/SB/17 (10/02) (modified)  
 Approved for use through 04/30/2003, OMB 0651-0032  
 Patent and Trademark Office; US DEPARTMENT OF COMMERCE

2003

**FEE TRANSMITTAL****TOTAL AMOUNT OF PAYMENT**Subtotal (1) + Subtotal (2) + Subtotal (3) = **( \$( ) 843.00 )**

<i>Complete if Known</i>	
Application Number	Divisional of 09/842,756
Filing Date	March 1, 2004
Inventor	James F. Zucherman et al.
Group Art Unit	3732
Examiner Name	David O. Reip
Attorney Docket Number	KLYC-01056USE

**METHOD OF PAYMENT****FEE CALCULATION (continued)****1. The Commissioner is hereby authorized to:**

Charge the indicated fees to the below mentioned deposit account.  
 Charge any additional fee required under 37 CFR 1.16 - 1.21 or credit any over payments to the below mentioned deposit account.  
 Applicant claims small entity status. See 37 CFR 1.27.

Deposit Account Number: 06-1325  
 Deposit Account Name: Fliesler Meyer LLP

**2.  Payment Enclosed:**  
 [  ] Check    [  ] Other**3. ADDITIONAL FEES**

Large Entity Fee Code/Fee	Small Entity Fee Code/Fee	Fee Description	Fee Due
1051/\$130	2051/\$65	Surcharge - late filing fee or oath	
1052/\$50	2052/\$25	Surcharge-late provisional filing fee or cover sheet	
1812/\$2,520	1812/\$2,520	For filing a request for reexamination	
1251/\$110	2251/\$55	Extension for response within first month <sup>†</sup>	
1252/\$420	2252/\$210	Extension for response within second month <sup>†</sup>	
1253/\$950	2253/\$475	Extension for response within third month <sup>†</sup>	
1254/\$1,480	2254/\$740	Extension for response within fourth month <sup>†</sup>	
1255/\$1,970	2255/\$985	Extension for response within fifth month <sup>†</sup>	
1401/\$320	2401/\$160	Notice of Appeal	
1453/\$1,300	2453/\$650	Petition to revive unintentionally abandoned application	
1501/\$1,330	2501/\$665	Utility Issue Fee (Or Reissue)	
1502/\$470	2502/\$235	Design Issue Fee	
1460/\$130	1460/\$130	Petitions to the Commissioner	
1814/\$110	2814/\$55	Statutory Disclaimer	
1806/\$180	1806/\$180	Submission of Information Disclosure Statement	
8021/\$40	8021/\$40	Recording each patent assignment per property (times number of properties)	
1809/\$750	2809/\$375	Filing a submission after final rejection (37 CFR 1.129(a))	
1801/\$770	2801/\$385	Request for Continued Examination (RCE)	
Other fee (specify):			
Other fee (specify):			
<b>SUBTOTAL (3)      \$( ) 0</b>			

**2. CLAIMS**

Large Entity Fee Code/Fee	Small Entity Fee Code/Fee	Fee Description
1202/\$18	2202/\$9	Claims in excess of 20
1201/\$86	2201/\$43	Independent claims in excess of 3
1203/\$280	2203/\$140	Multiple dependent claim
1204/\$86	2204/\$43	Reissue independent claims over original patent
1205/\$18	2205/\$9	Reissue claims in excess of 20 and over original patent

(Col. 1) For	No. of Existing Claims	(Col. 2) Highest No. Previously Paid For	(Col. 3)		Fee Due
			minus*	=	
TOTAL	47	20 or		27	x 9 = 243
INDEP	8	3 or		5	x 43 = 215
[ <input type="checkbox"/> ] First presentation of multiple dependent claim					

\* Subtract the greater number of Col. 2

\*\* If the difference between Col. 1 and Col. 2 is less than zero, then enter "0" in Col. 3

**SUBTOTAL (2)      \$( ) 458****SUBMITTED BY**

Typed or Printed Name

Sheldon R. Meyer

**Complete (if applicable)**

Reg. Number

27,660

Signature

Date

March 1, 2004

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application

Inventor: James F. Zucherman et al.

Appl. No.: Division of 09/842,756

Filed: March 1, 2004

Title: Method for Lateral Implantation of Spinous  
Process Spacer

**PATENT APPLICATION**

Art Unit: 3731

Examiner: David O.Reip

**Customer No. 23910**

**STATEMENT REQUESTING DELETION OF  
INVENTOR(S) UNDER 37 CFR §1.63(d)**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The present above-captioned application is a divisional application. Copies of executed oaths or declarations filed in prior applications, for which priority is claimed, are enclosed herewith, as allowed under 37 CFR §1.63(d)(1). Less than all the persons named as inventors in the oaths or declarations filed for the prior applications should be named in the present application.

**STATEMENT:** In accordance with 37 CFR §1.63(d)(2), the deletion of the following name(s), which were listed on the executed oaths or declarations, is requested. This deletion is requested because these persons are not an inventor of the claimed invention of the present application:

- (1) T. Wade Fallin
- (2) Charles J. Winslow
- (3) \_\_\_\_\_
- (4) \_\_\_\_\_

In accordance with 37 CFR §1.33(a), the undersigned, making the above STATEMENT, is:

A registered attorney or agent of record appointed under 37 CFR §1.34(b), or acting in a representative capacity under 37 CFR §1.34(a).

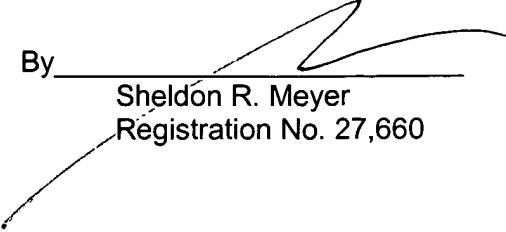
An assignee as provided for under 37 CFR §3.71(b).

No fee is required.

Respectfully submitted,

Date March 1, 2004

By

  
Sheldon R. Meyer  
Registration No. 27,660

Fliesler Meyer LLP  
Four Embarcadero Center, Fourth Floor  
San Francisco, California 94111-4156  
415/362-3800 Telephone  
415/362-2928 Fax